

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) CASE NO. 8:07CR125
)
Plaintiff,)
)
vs.) ORDER
)
CHI'DAE SEVILLE GORDON,)
)
Defendant.)

This matter is before the Court on the Defendant's motion to reduce her sentence pursuant to the crack cocaine Amendment 706 (Filing No. 79) and motion for leave to proceed in forma pauperis (Filing No. 81).

The Defendant pleaded guilty to Count I of the Indictment charging her with distribution of 5 grams or more of a mixture or substance containing cocaine base. (Filing No. 29.) The plea agreement filed on May 29, 2007, provided that the Defendant was responsible for 32 grams of a mixture or substance containing cocaine base and therefore a base offense level of 28. (Filing No. 29.) The PSR, drafted under the 2006 guideline manual, applied a total offense level of 25. (Filing No. 71, ¶ 21.) On October 12, 2007, the Defendant was sentenced to 60 months imprisonment. (Filing No. 73.) At sentencing, the Defendant was in a sentencing guideline range of 60-71 months, based on a total offense level of 23 and placement in criminal history category III. (Filing No. 74.) Had the Defendant not been subject to a 5-year statutory minimum sentence, her guideline range would have been 57-71 months.

The Defendant was sentenced prior to the effective date of the 2007 guidelines, including crack cocaine Amendment 706. However, the Court lowered the total offense level from 25 to 23 based on the impending crack cocaine amendment. The Court then

sentenced the Defendant at the lowest end of her guideline range. Therefore, the Defendant received at sentencing the relief she now requests in her motion to reduce her sentence. No further relief is available to the Defendant at this time.

IT IS ORDERED:

1. The Defendant's motion to reduce her sentence pursuant to the crack cocaine Amendment 706 (Filing No. 79) is denied as moot; and
2. The Defendant's motion for leave to proceed in forma pauperis (Filing No. 81) is denied as moot.

DATED this 5th day of March, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge